

Attorney Docket No.: 212-02US:0103  
Application No.: 09/801,201

### Remarks

#### **I. Introduction**

Claims 1-5, 9-17, 19, 31-52, 62-63, and 74-95 are pending in this application. Claims 6-8, 18, 20-30, 53-61, and 64-73 were previously withdrawn from consideration without prejudice by Election filed on May 19, 2007. By this amendment, claims 1-4, 9, 12-15, 50, and 62-63 are hereby amended to more clearly distinguish over the art of record. Reconsideration in view of the forgoing amendments and following remarks is respectfully requested. No new matter has been introduced by this amendment.

#### **II. Allowable Subject Matter**

Applicant thanks the examiner for the indication of allowance for claims 36-49 and 76-80. Applicant appreciates the provisional indication of allowance as to claims 17 and 19. Applicant respectfully submits that all pending claims are in condition for allowance.

#### **III. Claim Rejections and Objections**

Claims 1-3 and 62 stand rejected under 35 U.S.C. § 102(b) over Muller (4,865,610); claims 4-5 stand rejected under 35 U.S.C. § 103(a) over Muller; claims 9-16, 31-35, 50-52, 63, 74-75, 81-82, and 84 stand rejected under 35 U.S.C. § 103(a) over Muller in view of Roby et al. (5,691,703); claim 83 stands rejected under 35 U.S.C. § 103(a) over Muller in view of Roby and further in view of Lautzenhiser et al. (5,012,165); claims 85-88 stand rejected under 35 U.S.C. § 103(a) over Muller in view of Lautzenhiser; and claims 89-95 stand rejected under 35 U.S.C. § 103(a) over Muller in view of Roby and further in view of Lautzenhiser. Applicant respectfully traverses the rejections. Also, claims 1 and 4 were objected to based on an informality.

1. With respect to the rejection of claims 1-3 and 62 under 35 U.S.C. § 102(b) over Muller, Applicant offers the following. Muller fails to disclose a tilt-sensitive transducer but rather discloses an "impact pressure transducer." (Col. 5, lines 42-43). The transducer of the present invention does not rely upon impact, but rather solely of tilt motions, e.g., paragraph 0022. Claim 1 has currently been amended to positively claim a tilt-sensitive type of

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transducer. The transducer disclosed in Muller uses some form of user impact, such as by blowing or by bite contact (Col. 3, line 59). The tilt-sensitive transducer of the present invention avoids the need for blowing or a bite contact or a sliding or some intermediate device by mounting the sensor at any point on the user rather than the more restrictive and confining implementation of Muller. Use of the tilt-sensitive transducer is preferable to the impact pressure transducer utilizing a bite-contact because the tilt-sensitive transducer is less obtrusive and more flexible and adaptable than an impact pressure transducer. Muller, although it does disclose a microprocessor and microcomputer, does not disclose employing any programming or code to effect a differentiator. Muller discloses using a coordinate system and the mouthpiece as providing a differential, e.g., "Each of the impact pressure transducers 44 and 45 generates a signal characterizing by value and arithmetical sign the pressure differential between the chambers 38, 39 and the outside" (Col. 4, lines 23-26), and "The elements located in the vicinity of the operator's mouth which have been described provide the following signals: impact pressure transducer 28 and/or 44, 45: pressure differential in one, or in two separated, chambers with respect to the outside (produced by blowing or suction through the openings 36 and/or 37)" (Col. 5, lines 42-48). But this does not disclose, teach or suggest a "differentiator" as called for in the claims 1 and 62. The points of distinction are not necessarily exhaustive and are substantive so as to make the points of novelty of claim 1 non-obvious over Muller.

For at least the reasons set forth above there are several points by which claims 1 and 62 are patentably distinguishable over Muller. Accordingly, Applicant respectfully submits that claims 1 and 62 are patentable over Muller. Dependent claims 2-3, as well as all remaining claims, are also patentable over Muller for at least the same reasons as claim 1.

2. With respect to the rejection of claims 4-5 under 35 U.S.C. § 103(a) over Muller, Applicant offers the following.

For at least the reasons set forth above there are several points by which claim 1 is distinguishable over Muller. Accordingly, Applicant respectfully submits that claim 1 is patentable over Muller and that dependent claims 4-5, as well as all remaining claims, are also patentable over Muller for at least the same reasons as claim 1.

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3. With respect to the rejection of claims 9-16, 31-35, 50-52, 63, 74-75, 81-82, and 84 under 35 U.S.C. § 103(a) over Muller in view of Roby, Applicant offers the following. The reliance on the combination of Muller and Roby fails as one possessing ordinary skill in the art involving the inventive subject matter would not look to the fire alarm related teachings of Roby. Roby represents non-analogous art not properly combinable with the teachings of Muller. Roby does not relate to providing output signals based on operator control or user inputs and differentiating user input derived output signals so as to perform a switching function. Roby discloses a passive fire detection system that detects conditions. Moreover, Roby fails to correct the deficiencies of the Muller reference as discussed above. The points of distinction are not necessarily exhaustive and are substantive so as to make the points of novelty of claims 9-16, 31-35, 50-52, 63, 74-75, 81-82, and 84 non-obvious over the combination of Muller in view of Roby.

For at least the reasons set forth above there are several points by which claims 9-16, 31-35, 50-52, 63, 74-75, 81-82, and 84 are patentably distinguishable over the combination of Muller in view of Roby. Accordingly, Applicant respectfully submits that claims 9-16, 31-35, 50-52, 63, 74-75, 81-82, and 84 are patentable over the Muller/Roby combination. Moreover, all remaining claims are also patentable over the Muller/Roby combination for at least these same reasons.

4. With respect to the rejection of claim 83 under 35 U.S.C. § 103(a) over Muller in view of Roby and further in view of Lautzenhiser, Applicant offers the following. Lautzenhiser fails to correct the deficiencies of Muller and Roby discussed above.

For at least the reasons set forth above dealing with the deficiencies of Muller and the combination of Muller and Roby, there are several points by which claim 83 is patentably distinguishable over the combination of Muller in view of Roby and further in view of Lautzenhiser. Accordingly, Applicant respectfully submits that claim 83 is patentable over the Muller/Roby/Lautzenhiser combination, as are all remaining claims.

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Also, claims 89-95 stand rejected under 35 U.S.C. § 103(a) over the same combination of Muller in view of Roby and further in view of Lautzenhiser. Applicant offers the following. In addition to the arguments raised hereinabove, none of the relied on references disclose "controlling an output signal in response to [a] body-member gesture and maintaining a switch output status irrespective of said controlling step." Nor do the references disclose the further step of then "changing said switch output status in response to a predetermined rate-of-change of said output signal." Lautzenhiser fails to correct the deficiencies of Muller and Roby discussed above.

For at least the reasons set forth above dealing with the deficiencies of Muller and the combination of Muller and Roby, there are several points by which by which claims 89-95 are patentably distinguishable over the combination of Muller in view of Roby and further in view of Lautzenhiser. Accordingly, Applicant respectfully submits that claims 89-95 are patentable over the Muller/Roby/Lautzenhiser combination, as are all remaining claims.

Likewise, with respect to the rejection of claims 85-88 under 35 U.S.C. § 103(a) over Muller in view of Lautzenhiser, neither reference discloses "controlling an output signal in response to [a] body-member gesture and maintaining a switch output status irrespective of said controlling step." Nor do the references disclose the further step of then "changing said switch output status in response to a predetermined velocity of [performing a body-member gesture]." Lautzenhiser fails to correct the deficiencies of Muller discussed above.

For at least the reasons set forth above dealing with the deficiencies of Muller, there are several points by which claims 85-88 are patentably distinguishable over the combination of Muller in view of Lautzenhiser. Accordingly, Applicant respectfully submits that claims 85-88 are patentable over the Muller/Lautzenhiser combination, as are all remaining claims.

5. With respect to claims 1 and 4, Applicant has amended the claims to read "a differentiator *adapted to receive* said output signal" essentially as suggested by the Examiner to overcome this informality. Applicant respectfully requests the withdrawal of the objections.

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#### IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request that the rejections of claims 1-3 and 62 under 35 U.S.C. § 102(a) and the rejections of claims 4-5, 9-16, 19, 31-35, 50-52, 63, 74, 75 and 81-95 under 35 U.S.C. § 103(a) be withdrawn. In order for a rejection under § 102 to be proper, the reference must teach each and every claim element explicitly or inherently. As set forth above, Muller fails to meet this standard. Applicant also submits that any combination involving Roby is improper, as set forth above, and in any event the differences between the claimed invention and any combination of Muller, Roby, and Lautzenhiser are so significant as to also be non-obvious under § 103.

Applicant submits that all pending claims not previously allowed in this application are in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested. Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below. In the event any variance exists between the amount enclosed and the Patent Office charges, please charge or credit any difference to the undersigned's Deposit Account No. 50-0976.

Respectfully submitted,

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